UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,391	06/22/2001	Russell H. Fish III	52803-00001	7165

		EXAMINER
7590	11/24/2006	NANO, SARGON N

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ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 August 2006</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) <u>1 - 69</u> is/are pending in the application.

    4a) Of the above claim(s) <u>1 - 39, 51 - 69</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) <u>40 - 50</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Response to Amendment

1.   This action is responsive amendment received on April 28, 2006. Claims 40 – 50 were

examined. Claim 40 was amended. Claims 51 – 69 were newly introduced.

Election/Restrictions

Since applicant has received an action on the merits for the originally presented
    invention, this invention has been constructively elected by original presentation for
    prosecution on the merits. Accordingly, claims 51 - 69 are withdrawn from
consideration as   being directed to a non-elected invention. See 37 CFR 1.142(b) and
MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an.application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

Claims 40 – 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Narvaez et al.

U.S. Patent No.6,704,320 (referred to hereafter as Narvaez).

As to claim 40, Narvaez teaches a distributed computer network, comprising: a

collection of computers;

means for an added computer to locate the collection of computers (see col. 11, lines 10 – 28, Narvaez discloses all connected nodes are determined with associated links);

means for the added computer to establish a connection to the collection of computers(see col.11, lines 44- 58 Narvaez discloses links are determined between main node and all other nodes) ;

means for each computer in the collection of computers, including the added computer, to establish a logical arrangement such that each computer in the collection of computers can act as a top level of a hierarchy, wherein the hierarchy includes at least a substantial number of the computers in the collection of computers (see col. 10 , lines 37 – 62, Narvaez discloses updated tree adds new nodes and deletes nodes according to disctance calculation from the main node).

As to claim 41, Narvaez teaches the distributed computer network of claim 40, wherein the hierarchy comprises a set of member computers, a membership of which depends upon a logical location of the computer that acts as the top level of the hierarchy (see col.11, lines 10 – 60).

As to claim 42, Narvaez teaches the distributed computer network of claim 40, further comprising means for the computer that acts as the top level of the hierarchy to initiate a search for one of a specified computer and specified data (see col. 12, lines 16 – 35).

As to claim 43, Narvaez teaches the distributed computer network of claim 42, wherein each computer in the collection of computers includes a searchable index of the contents of the computer for facilitating said search (see col. 12, lines 16 – 35).

As to claim 44, Narvaez teaches the distributed computer network of claim 40, further comprising means for the computer than acts as the top level of the hierarchy to broadcast information throughout the hierarchy (see col. 12, lines 16 – 35).

As to claim 45, Narvaez teaches the distributed computer network of claim 40, further comprising means to control a bandwidth utilization of the collection of computers 9see col. 1 lines 15 – 30).

As to claim 46, Narvaez teaches the distributed computer network of claim 40, further comprising a plurality of lower level computers, wherein information regarding the lower level computers is stored in a respective one of the computers in the collection of computers (see col. 4 lines 10 – 60).

As to claim 47, Narvaez teaches the distributed computer network of claim 40, further comprising means for rebuilding a logical arrangement of the collection of computers following a loss of at least one computer from the collection of computers (see col. 4 lines 10 – 60).

As to claim 48, Narvaez teaches the distributed computer network of claim 40, further comprising means for distributing software updates throughout the collection of computers(see col. 4 lines 10 – 60).

As to claim 49, Narvaez teaches the distributed computer network of claim 40, wherein each computer in the collection of computers includes a dynamic physical address (see col. 7 lines 40 – col. 8 line 60).

As to claim 50, Narvaez teaches the distributed computer network of claim 40, further comprising means for generating the logical arrangement to substantially minimize a logical distance between a logical center of the collection of computers and a logical collection edge (see col. 4 lines 10 – 60).

Response to Argument

Applicant's arguments have been fully considered but they are not persuasive.

In the remarks applicant argue in substance that

A) Narvaez does not suggest or teach hierarchial relationship from one computer to many computers.

B) Navaez does not suggest or teach a network where a computer is added or deleted.

In response to B) examiner respectfully disagrees because Navaez disclose a tree data structure (parent- child) where the structure of a network (multiple nodes) is dynamically changed or modified according to calculation of the distance between nodes where the parent node can become the child node (change in hierarchy) . (see Navaez col. 7 line 32 – col. 8 line 23 and figs. 2, 3, 4 and 5).

In response to B) Navaez discloses that the attributes of a number of selected nodes in the temporary tree structure are updated wherein the update of the attributes of these nodes determine whether these selected nodes are kept or removed from the

temporary tree structure, therefore the keeping or removal of a node in Navaez meets

the scope of the claimed limitation "system or network where a computer is added or

deleted" (see col. 11 line 64 – col. 12 line 14).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sargon N. Nano whose telephone number is (571) 272-

4007007. The examiner can normally be reached on Monday – Friday from 8:30 – 5:30

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-40014001. The fax phone

number for the organization where this application or proceeding is assigned is 703-

872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Sargon Nano
11/18/06

ARIO ETIENNE
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